

TENTATIVE RULINGS for CIVIL LAW and MOTION

July 28, 2010

Pursuant to Yolo County Local Rules, the following tentative rulings will become the order of the court unless, by 4:00 p.m. on the court day before the hearing, a party requests a hearing and notifies other counsel of the hearing. To request a hearing, you must contact the clerk of the department where the hearing is to be held. Copies of the tentative rulings will be posted at the entrance to the courtroom and on the Yolo Courts Website, at www.yolo.courts.ca.gov. If you are scheduled to appear and there is no tentative ruling in your case, you should appear as scheduled.

Telephone number for the clerk in Department Fifteen: (530) 406-6941

TENTATIVE RULING

Case: **Coast Transit Refrigeration, Inc. v. Property Equities, LLC**
Case No. CV CV 09-1563, consolidated with
Property Equities, LLC v. Coast Transit Refrigeration, Inc.
Case No. CV UD 09-2757

Hearing Date: **July 28, 2010** **Department Fifteen** **9:00 a.m.**

This matter is **CONTINUED** on the Court's own motion to Friday, August 13, 2010, at 9:00 a.m. in Department Fifteen.

TENTATIVE RULING

Case: **GE Money Bank-GE Flex Plus v. Marmolejo**
Case No. CV G 09-2055

Hearing date: **July 28, 2010** **Department Fifteen** **9:00 a.m.**

Plaintiff's motion for summary judgment is **GRANTED** in the amount of \$8,981.76. (Code Civ. Proc., § 437c, subd. (c); Plaintiff's Separate Statement of Undisputed Material Facts 1-10; Declaration of Ed Garabedian ¶¶ 1-12, Exhibits 1 & 2; Declaration of Francisco, Marmolejo ¶¶ 1-5; Defendant's Response to Plaintiff's Separate Statement of Undisputed Material Facts 1-10.) The papers submitted show that there is no triable issue as to any material fact and that plaintiff is entitled to a judgment as a matter of law.

Plaintiff's request for attorney's fees and costs is **DENIED WITHOUT PREJUDICE**. (Civ. Code, § 1717; Cal. Rules of Court, rules 3.1700 *et seq.*)

Plaintiff is directed to prepare a formal order consistent with this ruling and in accordance with Code of Civil Procedure section 437c, subdivision (g) and California Rules of Court, rule 3.1312.

TENTATIVE RULING

Case: **Mocerin v. Spellmeyer**
Case No. CV CV 08-3232

Hearing Date: **July 28, 2010** **Department Fifteen** **9:00 a.m.**

The motion to quash plaintiff's subpoena to Woodland Clinic Medical Group is **GRANTED**. It appears that the defendant was interviewed at Woodland Memorial Hospital when she made the alleged statement to police that plaintiff had assaulted her on June 6, 2008. (Page 7 of Exhibit 9 to the Declaration of Michael Stewart.) Assuming that the subpoena to Woodland Clinic Medical Group seeks records relating to defendant's June 8, 2008, treatment at Woodland Memorial Hospital, such records are directly relevant to the allegations in the first amended complaint, defendant's denial of those allegations, and defendant's responses to requests for admission ("RFAs") from plaintiff. (Exhibits 1-2 and 4-7 to the Declaration of Michael Stewart.) However, as drafted, the subpoena to Woodland Clinic Medical Group is overbroad because it is not limited to records relating to defendant. (Exhibit A to the Declaration of Michael Jansen.)

The motion to quash plaintiff's subpoena to Monroe Detention Center is **DENIED**. Records relating to defendant's physical and emotional condition and report to police on June 8, 2008, are directly relevant to the allegations in the first amended complaint, defendant's denial of those allegations, and defendant's responses to the RFAs from plaintiff. There does not appear to be an alternative means of obtaining the information plaintiff seeks through this subpoena. The time period covered by the subpoena is narrow, and the subpoena seeks only those records relating to defendant.

The request for monetary sanctions against plaintiff and his counsel is **DENIED**. (Code Civ. Proc., § 1987.2, subd. (a).)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.

TENTATIVE RULING

Case: **Save Rural Yolo County v. County of Yolo**
Case No. CV PT 08-2901

Hearing Date: **July 28, 2010** **Department Fifteen** **9:00 a.m.**

The motion for attorney fees and costs is **DENIED**. (Code Civ. Proc., §1021.5.) California courts apply the "catalyst theory" to justify a Code of Civil Procedure section 1021.5 fee award in cases where the litigation does not result in a judicial resolution but, plaintiff is the "catalyst" in motivating defendant to provide the relief sought. (*Graham v. DaimlerChrysler Corp.* (2004) 34 Cal.4th 553, 560–561.) The Court must find a causal connection between the lawsuit and the relief obtained. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1291–1292.) The Court does not find a causal connection between the lawsuit and the relief obtained. (Declaration of Saxton; Declaration of Barth.)

If no hearing is requested, this tentative ruling is effective immediately. No formal order pursuant to California Rules of Court, rule 3.1312 or further notice is required.